

1 WORLDCOM, INC., ET AL

2 Q. And will you identify what  
3 Exhibit A15 is?

4 A. A15 is a letter that I sent to one  
5 of our business customers. And that was in  
6 response to a call that was initiated by the  
7 customer to me. And I believe his initial concern  
8 was about the bankruptcy, so I answered some  
9 questions about that. And then I offered to  
10 provide him with a lower cost phone service than  
11 was presently available with TTI National.

12 Q. The letter is dated September 25th,  
13 2002?

14 A. That's correct, yes.

15 Q. Is that approximately when you had  
16 this phone conversation with this individual?

17 A. Yes, because I probably faxed it  
18 the very same day.

19 Q. And other than this material  
20 conversation with this one customer, were there --  
21 and this letter, was there ever a time when you --  
22 when HSG solicited Customers, capital "C"?

23 A. Absolutely not. This was a --

24 Q. You indicated earlier there was  
25 some time when HSG made a business decision that

1 WORLD COM, INC., ET AL  
2 it needed to go out and try to solicit the  
3 customers to take them to a new phone service?

4 A. Right. It became very, very clear  
5 to me somewhere in the end of August/September  
6 time frame that HSG no longer valued us as an  
7 agent, swiping one of their largest agents in the  
8 country, and that it was just the handwriting was  
9 on the wall.

10 It was not a question of when our  
11 commission payments would stop. It's just --  
12 sorry. It's not a question of if they would stop  
13 because we knew they would be stopped, it was just  
14 a question of when.

15 And there were three major  
16 components to our reaching that decision.

17 Q. What were those?

18 A. One was we never got back an  
19 executed seventh amendment and, number two was  
20 that the agents that WorldCom wanted to retain  
21 were offered an advanced commission program to get  
22 them through the month of August. And when I  
23 requested that, it was denied. And just a third  
24 thing was my conversations with Brent Lako where  
25 he made it clear to me that he said your

1 WORLD COM, INC., ET AL  
2 residential type of customer is no longer a value  
3 to us. We don't want 12-dollar customers anymore.  
4 We're going after -- we want agents who can sell  
5 our business and data programs.

6 So it became clear to me that the  
7 end was near.

8 Q. Explain, if you would, Mr. Bein,  
9 that belief in relationship to your earlier  
10 testimony that you were told as long as HSG did  
11 not solicit the customers it procured for  
12 WorldCom, it would be paid its commissions even  
13 post petition.

14 A. Well, we followed that as long as  
15 we could. We didn't want to jeopardize our  
16 commission checks. As I said, we produced some of  
17 the biggest revenue that WorldCom ever had from an  
18 agent. And we were getting, obviously, our  
19 commence -- sorry -- commission checks, so we  
20 don't want to jeopardize that.

21 So our policy was -- and everybody  
22 in the call center knew this, our whole company  
23 knew it -- don't solicit the customers, do not  
24 solicit the customers because you're going to get  
25 the checks.

1 WORLDCOM, INC., ET AL

2 And they came for a while and then  
3 we knew time was near and the longer we would have  
4 waited, probably it would have been much harder to  
5 try to move customers.

6 Q. So at some point HSG started to  
7 target the customers it procured for WorldCom to  
8 switch to another service, is that correct?

9 A. Yes, sir, that's correct.

10 Q. And when did that occur?

11 A. The time frame was approximately  
12 November 15th it started and it continued on for  
13 about 30 days thereafter.

14 Q. And let me have you take a look at  
15 Movant's Exhibit A16 and 17.

16 A. Okay.

17 Q. And tell us what those two  
18 documents represent.

19 A. Well, if you look at 17 first, 17  
20 represents the letter that was sent to the  
21 customers with a capital "C," these are our  
22 existing WorldCom customers.

23 Q. Okay. So that's a written evidence  
24 of HSG's decision in an attempt to go out and  
25 market this -- these customers?

1 WORLDCOM, INC., ET AL

2 A. That's correct. And the previous  
3 one, No. 16, was an insert into that solicitation  
4 letter.

5 Q. And where were you trying to  
6 convert these customers to? What service?

7 A. To another vendor called PowerNet  
8 Global or PNG.

9 Q. And the solicitation effort went  
10 over -- occurred over what period of time?

11 A. The first mailing started  
12 approximately November 15th and that continued  
13 till about December 15th.

14 Q. And did you review -- strike that.  
15 When customers -- when these  
16 customers that were targeted in this effort, and  
17 we'll call it a -- this post petition marketing  
18 effort by HSG, when these customers were signed up  
19 for this new service, were they tagged at all as  
20 being former customers of WorldCom?

21 A. Yes, we used a very carefully  
22 delineated tracking system so we knew exactly  
23 because we wanted to track our efforts and see how  
24 successful we might be; so we especially coded  
25 these customers' account numbers so we would know

1 WORLDWIDE, INC., ET AL  
2 precisely who they were that switched their  
3 services.

4 Q. And do you have any estimate in  
5 dollars how much revenue was generated from these  
6 customers who switched from -- back up.

7 Were there any customers that  
8 switched to service to PNG following this  
9 marketing effort?

10 A. Yes, there were.

11 Q. And you indicated just now how you  
12 tracked them. Do you have any estimate as to how  
13 much revenue they generated in, say, the month of  
14 December?

15 A. My estimate that's in my mind is in  
16 February because it takes time. By the time  
17 people got the mailing and enrolled and used the  
18 services, then it takes another month for them to  
19 be billed. So the first full month that really  
20 represents the full billing was for February 2003,  
21 and that number as PNG reported to us was  
22 \$133,000.

23 Q. And has -- and what about March?  
24 Do you recall what that figure is?

25 A. March, it was about the same.

1 WORLDCOM, INC., ET AL

2 Q. Sometime in December HSG received a  
3 letter from WorldCom counsel, Mr. Marcus. I refer  
4 you to Exhibit A18.

5 A. I see that.

6 Q. And you received that -- you  
7 received that, is that correct?

8 A. I did, yes.

9 Q. And what, if anything -- what, if  
10 anything, did HSG do in response to receiving this  
11 letter?

12 A. We decided at that point in time  
13 that we would discontinue any efforts of  
14 solicitation.

15 Q. And anything else? Did you take  
16 any other actions in response to that letter?

17 A. I hired your law firm.

18 MR. ENGELMAN: May I approach the  
19 witness with Movant's Exhibit B, Your Honor?

20 THE COURT: Go ahead. How much  
21 longer is direct examination because I want to  
22 take a break?

23 MR. ENGELMAN: Ten minutes.

24 THE COURT: Go ahead.

25

1 WORLDCOM, INC., ET AL  
2 BY MR. ENGELMAN:

3 Q. You have in front of you Movant's  
4 Exhibit B. Can you describe what that is?

5 A. This is a very detailed call record  
6 of -- related to our customer service center in  
7 Puerto Rico.

8 Q. Let's talk about that before we get  
9 to the report, talk about your -- the call center.  
10 First of all, who -- what is the  
11 call center and who owns it?

12 A. Well, the call center is embedded  
13 in a company called Cassiano (phonetic)  
14 Communication which is a 30-year-old Puerto Rican  
15 company, and within Cassiano Communications we  
16 have an area that they provide to us. And we had  
17 at the time five employees who were full-time  
18 employees of our company.

19 Q. And what do they do?

20 A. Well, they were strictly customer  
21 service. We didn't do any outbound calling  
22 whatsoever. We are strictly an inbound customer  
23 service call center. So all the calls coming in  
24 were either from WorldCom customers or prospective  
25 customers.



1 WORLDCOM, INC., ET AL

2 Q. All right. Now, I would like for  
3 you to take a look at this exhibit, Movant's  
4 Exhibit B, and I want to just go through it a  
5 little bit and explain -- have you explain what  
6 some of these entries are?

7 A. Sure. For example --

8 Q. Let me ask the question, please.

9 A. Sorry, I thought you wanted me  
10 to --

11 Q. First of all, the very first page  
12 has at the very top a year-to-date, month-to-date  
13 of January and then a month-to-date of February.  
14 It goes on to July 1st.

15 Do you see that?

16 A. Yes, I do.

17 Q. And as you go through the rest of  
18 this exhibit, it has the daily calls through the  
19 end of December of 2002, is that correct?

20 A. Yes.

21 Q. Somewhere else there's probably  
22 this same report for January 1st through  
23 June 30th, 2002, is that correct?

24 A. Yes, that's correct.

25 Q. At the very -- at the column on the

1 WORLDCOM, INC., ET AL  
2 left it says Calls Offered.

3 What does that mean? What does  
4 that reference?

5 A. That's the total number of calls  
6 actually coming into the phone system.

7 Q. And Calls Handled, what does that  
8 mean?

9 A. Calls Handled represents an actual  
10 live discussion or live conversation from a  
11 customer about our customer service  
12 representative.

13 Q. So if we look at Monday, July 1st,  
14 168 calls, that means that the phone rang 168  
15 times, is that right?

16 A. Yes, and that got into the menu  
17 system 168 times, right.

18 Q. And Calls Handled means that it was  
19 handled 168 times, right?

20 A. By a live person, yes.

21 Q. Beneath that it says Average Handle  
22 Per Call. And it says for July 1st, 3.73.

23 A. No, it says Per Hour, average per  
24 hour.

25 Q. Average per hour. Okay. Next

1 WORLDCOM, INC., ET AL  
2 column is Abandon. What does the term "abandon"  
3 mean?

4 A. The abandon means the customer,  
5 after getting into our voice mail system, menu  
6 system, for whatever reason, decided not to hold  
7 on until there was an answer.

8 Q. All right. And down there in bold  
9 it says "Hours Worked" and, for example, in  
10 July 1st it says "45," what does that represent?

11 A. Right. That represents the total  
12 number of hours that our five CSRs or customer  
13 service reps were actually logged into the phone  
14 system.

15 Q. And then the next line says "Talk  
16 Time Percentage." What does that represent?

17 A. That represents the -- of their  
18 total time logged into the phone system, the  
19 percentage of time they were speaking with a  
20 customer.

21 Q. And talk time, that's just computed  
22 into hours, same thing computed into actual time,  
23 is that correct?

24 A. Yes, sir, that is correct.

25 Q. Average Duration of Call Seconds,

1 WORLDCOM, INC., ET AL  
2 what does that represent?

3 A. That represents the average time  
4 that a customer service rep was talking to a  
5 customer.

6 Q. All right. And that's computed  
7 from the seconds and then it's computed from the  
8 minutes?

9 A. Correct.

10 Q. And finally, Total Call Overflow to  
11 Phoenix, it says zero. What does that represent?

12 A. Well, in some cases where we -- we  
13 also have a small operation in Phoenix and  
14 sometimes the CSR in Puerto Rico for some reason  
15 would direct the call to our Phoenix operation.

16 Q. And what is Total Calls -- I think  
17 it says Warm?

18 A. Warm transferred? My understanding  
19 from the call center operator, the owners of the  
20 equipment, that that line actually represents  
21 outbound phone calls.

22 Q. So what calls would come into the  
23 call center that would generate this report? Who  
24 would they be from?

25 A. They're absolutely 100 percent from

1 WORLDCOM, INC., ET AL  
2 either existing customers or prospects. TTI  
3 National prospects.

4 Q. At the time of the bankruptcy  
5 filing of WorldCom, was HSG trying to procure  
6 customers other than for WorldCom?

7 A. Absolutely not.

8 Q. Did that change sometime after the  
9 filing?

10 A. It did, yes.

11 Q. When did that change? When did  
12 that process change?

13 A. Probably sometime in August when I  
14 was told that we would not get commission credit  
15 for any new customers.

16 Q. And then is that when HSG started  
17 to try to procure customers or new prospects for  
18 PNG?

19 A. Yep. So if a prospect did call in,  
20 we would try to give them the services of our  
21 other vendor, PNG.

22 Q. And do you keep records of how many  
23 new -- of what the enrollment was for PNG after  
24 the bankruptcy case was filed?

25 A. Yes, I know that number, yes.

1 WORLDCOM, INC., ET AL

2 Q. Do you have an estimate of how much  
3 these calls as represented in this exhibit  
4 represents calls from existing WorldCom customers?

5 A. Yes, there were over 9,000 calls  
6 from exhibiting customers for which we provided  
7 them with service.

8 Q. And, again, what type of services  
9 were they provided?

10 MR. MARCUS: Sorry, I am going to  
11 have to object at this point. These were all  
12 questions that we asked in our discovery and it  
13 was pointed out to us there's no way to tell from  
14 the information in here whether and to what extent  
15 calls were actually received from WorldCom  
16 customers or prospective customers.

17 And we can certainly point the  
18 Court to the discovery requests that went back and  
19 forth on these issues.

20 MR. ENGELMAN: If I may respond? I  
21 would be happy to. We can point out the discovery  
22 because I think it was clear that one can't take a  
23 look at this and say that this was a customer  
24 call. These are simply calls that were logged in;  
25 however, the discovery clearly says the method by

1 WORLDCOM, INC., ET AL  
2 which we arrive at the -- the deduction of how  
3 much was allocated to calls from a customer, as  
4 well as the fact, I think, that was pretty stated  
5 from me directly to Mr. Marcus.

6 THE COURT: I think what we will  
7 do, you can address it on cross examination, I  
8 think clarify it during cross. I still need to  
9 make the phone call I needed to make at  
10 12:00 o'clock for five minutes. So even though  
11 you only have a few minutes left, I will still  
12 take a break.

13 (Short recess taken.)

14 MR. ENGELMAN: Your Honor, less  
15 than ten questions --

16 THE COURT: That's all right.  
17 Thank you. Go ahead.

18 BY MR. ENGELMAN:

19 Q. Mr. Bein, talking about the report  
20 marked Movant's Exhibit B and your estimate it  
21 came from customers, what's the basis of that  
22 estimate?

23 A. Well, in the same time period,  
24 exact same time period, we were able to determine  
25 that we enrolled in PNG 1237 customers. So we

1 WORLDCOM, INC., ET AL  
2 deducted that from our total number of calls,  
3 leaving a balance of 9,000 that were strictly  
4 related to customer service for the customers.

5 Q. And why would these customers with  
6 a capitalized "C" be calling the call center? How  
7 is it they would know to do that?

8 A. We became the front end for the  
9 customer service function. We wanted the  
10 customers to identify with us and that started  
11 right from the very marketing effort through the  
12 welcome letter that had our customer service phone  
13 number, through the calling cards that were issued  
14 to every single customer that had our phone number  
15 on it, and through the bill messages as well that  
16 had our phone number on it.

17 Q. And when -- what were the  
18 instructions to HSG to its call center employees  
19 on how to respond to inquiries of these customers  
20 from the time of the filing date at least until  
21 November 15th when HSG decided to market these  
22 customers?

23 MR. MARCUS: I'm going to object,  
24 Your Honor. That's hearsay.

25 MR. ENGELMAN: I am asking, Your



1 WORLDCOM, INC., ET AL

2 Honor, what the principals of HSG said to its  
3 employees in terms of a policy. I don't see how  
4 that's hearsay. I am asking what Mr. Bein said.

5 THE COURT: All right.

6 MR. MARCUS: Sorry. I think what  
7 Mr. Bein said to his employees is hearsay.

8 THE COURT: Well, it may be. You  
9 can cross examine him on it.

10 All right. Go ahead. I will allow  
11 the question.

12 MR. ENGELMAN: Thank you, Your  
13 Honor.

14 THE WITNESS: It was our very  
15 strict company policy that the customer service  
16 reps were not to solicit customers in any way  
17 whatsoever, again, going back to the several times  
18 we were told to abide by your contract and you'll  
19 get your commission checks, so we don't want to  
20 jeopardize our monthly commission.

21 BY MR. ENGELMAN:

22 Q. What, if anything, did the call  
23 center and the HSG employees do with this  
24 information that it received from these customers  
25 and these calls made to the call center post

1 WORLDCOM, INC., ET AL  
2 petition?

3 A. Well, in some cases we were able to  
4 handle it with just the one conversation, if  
5 somebody just wanted some rate information; but in  
6 many, many other cases, we would need to very  
7 directly interface with WorldCom's agent help desk  
8 in resolving problems for the customers.

9 Q. And how did that interface occur?  
10 What kind of formats were there?

11 A. There were two ways of doing it.  
12 We would either do things on a computer upload to  
13 WorldCom or it would just be a telephone call to  
14 WorldCom.

15 Q. And did this arrangement ever  
16 change?

17 A. On approximately December 16th,  
18 they terminated our ability to do any kind of  
19 computer interfacing with them.

20 Q. Okay. So up until December 16th,  
21 is it your testimony that HSG continued to provide  
22 this follow-up service to the customers?

23 A. Yes, sir, that's my testimony.

24 Q. Do you think that's important in  
25 terms of preserving a customer base?

1 WORLDCOM, INC., ET AL

2 A. It's crucial. It's very crucial to  
3 give a customer the best customer service because  
4 in a moment they could switch to another carrier.

5 MR. ENGELMAN: No further  
6 questions, Your Honor.

7 THE COURT: All right. Thank you.  
8 Cross examination.

9 CROSS EXAMINATION

10 BY MR. MARCUS:

11 Q. Good afternoon, Mr. Bein, how are  
12 you?

13 A. Fine. Thank you, sir.

14 Q. You mentioned earlier that Jeffrey  
15 Bein was the former president of the company, is  
16 that right?

17 A. Yes, that correct.

18 Q. And Jeffrey Bein is your son?

19 A. Yes, he is.

20 Q. Is Jeffrey Bein still with the  
21 company?

22 A. No, he is not.

23 Q. He is not. Have you familiarized  
24 yourself with the pleadings filed by HSG in this  
25 matter?

1 WORLDCOM, INC., ET AL

2 A. Yes.

3 Q. Have you read the declarations of  
4 Jeffrey Bein in support of the motion to your  
5 reply to our objection?

6 A. I probably have, yes.

7 Q. But you don't specifically recall?

8 A. I remember seeing your reference to  
9 it in your objection to our motion and quoting  
10 from it, but I'm not sure -- I probably did read  
11 the original declaration, yes.

12 Q. So you have no basis to know  
13 whether the information in there is, in fact,  
14 accurate or not?

15 A. You can ask me a question and I'll  
16 do the best I can to answer it for you.

17 Q. Again, you don't know if the  
18 information in there is accurate or not?

19 A. I probably do know, yes.

20 Q. You probably --

21 A. Mr. Marcus, we are a very small  
22 family business and we worked very closely  
23 together.

24 Q. I understand.

25 Okay. On -- sorry, give me just

1 WORLDCOM, INC., ET AL

2 one second.

3 On June 28th of 2002, Mr. Jeff Bein  
4 sent a termination letter to WorldCom, is that  
5 correct?

6 A. Yes.

7 Q. If I use WorldCom or MCI or TTI  
8 interchangeably, you'll understand?

9 A. That's fine.

10 Q. And is it fair to say that the  
11 HSG -- that the termination letter that was sent  
12 was based upon the exclusivity provision?

13 A. Yes.

14 Q. And you're familiar with the  
15 August 6th WorldCom letter accepting the  
16 termination of the representation agreement?

17 A. Yes.

18 Q. Let me refer you to Movant's  
19 Exhibit -- sorry, give me one second -- 12, which  
20 is the printout of the, I guess a portion of the  
21 home page and the letter?

22 A. Yes.

23 Q. Are you familiar with this web  
24 site?

25 A. Yes, you need a password and an ID

1 WORLDCOM, INC., ET AL  
2 to access it.

3 Q. Do you know what this web site is  
4 maintained for?

5 A. For agents.

6 Q. Do you have the pleadings in front  
7 of you? You don't, do you?

8 A. Unh-unh.

9 MR. MARCUS: May I approach the  
10 witness?

11 THE COURT: Go ahead.

12 Q. I'm looking at Tab 3A which is the  
13 supplemental declaration of Jeff Bein.

14 A. Okay. I see it.

15 Q. Looking at Page 3, Paragraph 8, it  
16 says regarding -- this is regarding the inducement  
17 that you allege the Debtors provided to you to  
18 continue operating the call center.

19 Can you read Paragraph 8?

20 A. If I'm in the right place, it  
21 begins "Debtor acted."

22 Q. That's correct.

23 A. "Debtor acted consistently with our  
24 ongoing relationship as well, for example,  
25 after --

1 WORLDCOM, INC., ET AL

2 Q. You don't have to read it out loud.  
3 I just want you to familiarize yourself.

4 THE COURT: Why don't you  
5 familiarize yourself with it for a minute?

6 I will -- you may then continue  
7 with the statement.

8 BY MR. MARCUS:

9 Q. Do you see the statement, "These  
10 messages instructed customers to call HSG with any  
11 service issues"?

12 A. Yes.

13 Q. Do you agree with that?

14 A. Well, let me just say the bill  
15 messages have been placed in our company six years  
16 every month, month after month after month.

17 Q. Sorry, I don't mean to interrupt.  
18 Do you agree with the statement?

19 A. Which part are you specifically  
20 referring to? The entire statement?

21 Q. The messages instructed customers  
22 to call HSG with service issues.

23 A. I believe that in this period of  
24 time we were more interested in obtaining dealers,  
25 so I think we had a dealer message in there with a

1 WORLDCOM, INC., ET AL  
2 different phone number.

3 Q. Okay. So then, in fact, it doesn't  
4 say that customers should call HSG with service  
5 issues, correct?

6 A. I think for those few bill  
7 messages, you're correct.

8 Q. Which few bill messages are you  
9 referring to?

10 A. That were right around the time of  
11 the filing.

12 Q. Okay. Mr. Bein, are you familiar  
13 with the calling cards?

14 A. Absolutely.

15 MR. MARCUS: Your Honor, may I  
16 approach the witness?

17 THE COURT: Go ahead.

18 MR. MARCUS: Your Honor, I have  
19 handed the witness Debtors' Exhibit A.

20 BY MR. MARCUS:

21 Q. Mr. Bein, aren't these, in fact,  
22 the calling cards that ATN sent out to the  
23 customers?

24 A. If you are referring to the third  
25 page in --



1 WORLDCOM, INC., ET AL

2 Q. I am.

3 A. -- yes, they are.

4 Q. Are you aware on the front it says  
5 "For additional calling cards or other services,  
6 call ATN"?

7 A. Yes.

8 Q. "But for customer service, see the  
9 back of the card."

10 You see where it says that?

11 A. No. It says, "For calling  
12 instructions, call -- " it didn't say call for  
13 customer service. It says to call about calling  
14 instructions.

15 Q. Can you look at the card on the top  
16 right, the bottom right-hand side?

17 A. Yes. That's for calling  
18 instructions, okay, or customer service. "See  
19 back of card."

20 Q. How about the card right below  
21 that?

22 A. Okay. Yes.

23 Q. Or, "Call 24-hour WorldCom customer  
24 service, see back of card."

25 A. Okay.

1 WORLDCOM, INC., ET AL

2 Q. Are you familiar with the back of  
3 these cards?

4 A. Yes, I am.

5 Q. And the customer service on the  
6 back of the card, customer service number is, in  
7 fact, WorldCom's customer service number?

8 A. In small print, you are correct,  
9 yes.

10 Q. I want to refer you to Movant's  
11 Exhibit B. That's the call log. I think one of  
12 the last statements you made on direct was  
13 customer service is crucial -- sorry -- it's  
14 crucial to give customers the best customer  
15 service possible.

16 A. Uh-huh, yes.

17 Q. The -- I am looking at the very  
18 first page of the call log. I see it starts on a  
19 Monday, goes Monday, Tuesday, Wednesday, Thursday,  
20 July 4th. You didn't handle any calls that day,  
21 correct?

22 A. That's correct. There was -- it  
23 was a holiday.

24 Q. And as I look through this, it runs  
25 Monday, Tuesday, Wednesday, Thursday, Friday,

1 WORLDCOM, INC., ET AL  
2 starts again Monday?

3 A. Uh-huh.

4 Q. So there are no calls answered on  
5 the weekend either, is that correct?

6 A. There is an automated system that  
7 does answer the calls. And one of the menu  
8 choices is we tell the caller if there's a  
9 question -- if there's a question about your phone  
10 bill or a change of address, to please call the  
11 carrier, so that is providing a service to the  
12 customer.

13 Q. Okay. Who refers them to  
14 WorldCom's customer?

15 A. It says call the customer service  
16 number on your phone bill.

17 Q. Okay. Now let's -- let's just take  
18 an average day, let's say, Thursday, the 11th,  
19 just picking at random. July 11th, average  
20 handled per hour, 2.87, and then duration of the  
21 calls, 209?

22 A. Seconds.

23 Q. 209 seconds.

24 A. Average per call which is 3.48  
25 minutes.

1 WORLDCOM, INC., ET AL

2 Q. I understand. Minutes.

3 So over the course of the day  
4 you've handled about three calls an hour for about  
5 seven or eight, nine minutes per hour?

6 A. If you're doing the mathematics, I  
7 don't have my calculator here in front of me, as I  
8 am sure you can see that.

9 Q. You testified earlier that at the  
10 call center it was a policy not to solicit  
11 customers until sometime in August when you had a  
12 relationship with PNG, correct, PowerNet Global?

13 A. Sorry, repeat your question.

14 Q. It was your policy at the call  
15 center to solicit the customers to, I guess,  
16 entice them to move to another carrier, correct?

17 A. That's correct.

18 Q. Until sometime in August you had a  
19 relationship with PowerNet Global; at that point  
20 in time you started --

21 A. That's not correct, no.

22 Q. Sorry. That's not what you said  
23 before?

24 A. No.

25 Q. What was your testimony?

1 WORLDCOM, INC., ET AL

2 A. I said it was our policy to abide  
3 by the surviving terms of our contracts.

4 Q. Sorry, the timing --

5 THE COURT: Slow down.

6 MR. MARCUS: I apologize.

7 A. To not solicit the customers, that  
8 was our policy. We had already after our  
9 termination agreement, because our desire to be  
10 nonexclusive, we already had a relationship with  
11 PNG, but we still did not solicit the customers.

12 Q. The call center calls that came in  
13 during the month of August --

14 A. Right.

15 Q. -- you did not testify earlier that  
16 you tried to switch those customers to PowerNet  
17 Global?

18 A. Mr. Marcus, let me be very clear.  
19 The calls coming into the call center were either  
20 from customers that were existing or prospects.  
21 Only the prospects, the few calls that were coming  
22 in from prospects did we try to now -- "switch" is  
23 the wrong word, but tried to enroll them with PNG,  
24 and those were a total of, I mentioned that  
25 before, 1247.

1 WORLDCOM, INC., ET AL

2 Q. Back to that number for a second,  
3 1247?

4 A. Actually 1237.

5 Q. 1237. What was that period of  
6 time?

7 A. Frankly, I think it was after the  
8 filing date through December.

9 Q. For approximately five months or  
10 so?

11 A. Something like that, yes.

12 Q. And your testimony was that because  
13 1200 customers people who called in --

14 A. Prospects.

15 Q. -- called in and were switched to  
16 PowerNet Global, your assumption is that all of  
17 the other callers were WorldCom customers that  
18 you, in fact, provided customer service to?

19 A. Probably 90 percent of that is  
20 true. I can't say that each and every caller that  
21 called in we were able to close. I mean, if there  
22 were -- I should say each and every prospect that  
23 called in, I am not saying necessarily closed  
24 them, closed the sale, but it was a very, very,  
25 very high percentage; so I think it's a reasonable

1 WORLDCOM, INC., ET AL

2 assumption that of the over 10,000 phone calls,  
3 that 9,000 were customer-service related.

4 Q. Let me just get the numbers here.

5 A. Okay.

6 Q. You are saying 90 percent of the  
7 callers following removal of the 1200 that you  
8 switched over to PowerNet Global, or are you  
9 saying 90 percent of the callers total; in other  
10 words, everyone who you didn't switch to PowerNet  
11 Global was somebody you provided customer service  
12 to?

13 A. No, I'm saying that there are some  
14 more that you would have to take out that we  
15 probably did not offer service to but that's a  
16 very small number.

17 Q. Not all for service to provide  
18 customer service to?

19 A. Could you repeat the question,  
20 please?

21 Q. Absolutely. We're starting with  
22 the premise of 10,000 phone calls.

23 A. Correct.

24 Q. And you said it's safe to assume  
25 that 9,000 you provided customer service to

1 WORLDCOM, INC., ET AL

2 because about 1200 of them you switched to  
3 PowerNet Global. So focusing on the 9,000 --

4 A. The 9,000.

5 Q. Is your position that 90 percent of  
6 those 9,000 were provided customer service to or  
7 all of those 90?

8 A. No. I would say not all but  
9 probably 90, 95 percent would be a good number.

10 Q. But you have no idea how many of  
11 those 90 percent were, in fact, prospective  
12 customers?

13 A. No. We already took those out. We  
14 just had this discussion. We just removed those  
15 from the equation.

16 THE COURT: No. Let me see if I  
17 can clarify.

18 What you removed from the equation  
19 were the prospective customers that you signed up.  
20 The prospective customers that didn't select your  
21 offer or enter into agreement with you aren't a  
22 part of -- a part -- I think you previously  
23 testified it's a small part but, nonetheless, it's  
24 a part of the 9,000 or so calls?

25 THE WITNESS: That's correct, Your



1 WORLDCOM, INC., ET AL

2 Honor.

3 MR. MARCUS: Thank you, Your Honor.

4 BY MR. MARCUS:

5 Q. And as for the customers that as  
6 opposed to the prospective customers that called,  
7 as to the actual customers, there's no way for us  
8 to tell what exactly was provided to that customer  
9 looking at this call log, correct?

10 A. No, not from the call log, no.

11 Q. And so if the customer called in,  
12 let's say, and wanted a cell phone --

13 A. We don't offer that service, so  
14 they would not call in for that service reason.

15 Q. You don't offer cell phone service?

16 A. Just on the Internet.

17 Q. Just on the Internet.

18 So if somebody got the phone number  
19 on the Internet and called in --

20 A. It's a point and click. It's  
21 strictly an Internet provider service.

22 Q. There is no phone number to call on  
23 your web site?

24 A. There is, yeah.

25 Q. Okay. And if -- well, okay. I

1 WORLDCOM, INC., ET AL

2 think -- you testified earlier that one of the  
3 three reasons you made the business decision to go  
4 ahead and solicit customers was a conversation you  
5 had with Brent Lako, correct?

6 A. Correct.

7 Q. Brent Lako told you that WorldCom  
8 no longer wanted to procure residential customers,  
9 correct?

10 A. No, he didn't -- I didn't say that.  
11 He just said that our type of residential customer  
12 was really not the type of customer that they were  
13 looking for and they did not want the 12-dollar  
14 customer I said. And he said there was very  
15 little value in our type of customer.

16 Q. What's "our type of customer"?

17 A. Residential customer, mostly  
18 residential customers.

19 Q. A family out of -- operating out of  
20 a house?

21 A. No, as opposed to a business  
22 customer.

23 Q. Local, long distance, residential  
24 customer?

25 A. And calling cards.

1 WORLDCOM, INC., ET AL

2 Q. Calling cards.

3 Are you familiar with the Debtors'  
4 Neighborhood program?

5 A. Yes.

6 Q. Are you aware this is one of the  
7 Debtors' most aggressively marketed products?

8 A. Certainly not through the agency  
9 channel. That was never offered to us as an  
10 agent. As far as I know, it's still not available  
11 to the agents, certainly not when we were  
12 associated with them.

13 Q. Are you aware this is one of  
14 WorldCom's aggressively marketed products?

15 A. I see a lot of ads on TV.

16 Q. Do you know they, in fact, target  
17 residential users?

18 A. Possibly, yes.

19 Q. Let's go to the letters that were  
20 sent to WorldCom customers and, in particular, I  
21 would like to direct you to Movant's Exhibit 15,  
22 which is a September 25th letter that you sent out  
23 to one of WorldCom's customers, is that correct?

24 A. Yes.

25 Q. Let me take a step back for a

1 WORLDCOM, INC., ET AL

2 second.

3 Pursuant to the representation  
4 agreement, when are the commissions paid?

5 A. Forty-five days at the end of the  
6 billing month.

7 Q. So for the month of September 2002,  
8 which was the last commission payment you  
9 received, correct --

10 A. Yes.

11 Q. -- for the month of September 2002,  
12 you would have received that commission payment on  
13 November 15th, correct?

14 A. Yes.

15 Q. And you, in fact, did receive that  
16 payment on November 15?

17 A. It might not have been exactly on  
18 the 15th but right around that time.

19 Q. On or about November 15th?

20 A. Yes.

21 Q. And you say that September 25th,  
22 2002 was an isolated incident?

23 A. Yes.

24 Q. And was this the first time that  
25 you solicited customers?

1 WORLDCOM, INC., ET AL

2 A. Yes.

3 Q. Again, your primary contact at  
4 WorldCom was Brent Lako, correct?

5 A. Correct.

6 Q. And do you recall having a  
7 conversation on July 31st with Brent Lako  
8 admitting that you had solicited customers?

9 A. No, I do not.

10 Q. You don't recall the conversation  
11 or you were not --

12 A. I don't recall the conversation.

13 Q. So it's entirely possible that you  
14 were soliciting customers on July 31st?

15 A. No, that doesn't follow just  
16 because I can't recall the conversation.

17 Q. Okay. Sorry. Just give me -- so  
18 it's your testimony that on July 31st did you not  
19 confirm to Brent Lako that ATN representatives had  
20 solicited customers to switch services to  
21 competitors of MCI WorldCom and that you confirmed  
22 that that competitor was PowerNet Global?

23 A. I don't recall a conversation like  
24 that, no.

25 Q. You don't recall the conversation

1 WORLDCOM, INC., ET AL

2 like that or you don't recall the conversation?

3 A. I don't recall the conversation.

4 Q. Thank you.

5 A. I don't recall that there ever was  
6 a conversation like that. I'm not saying -- I  
7 don't recall the exact words, I don't recall the  
8 conversation.

9 MR. MARCUS: Your Honor, can I have  
10 one minute?

11 THE COURT: Go ahead.

12 MR. MARCUS: I think this is just  
13 going to take a few more minutes.

14 BY MR. MARCUS:

15 Q. Let me direct you to Movant's  
16 Exhibit 19. There was a letter I sent to you on  
17 February 3rd. And in this letter it references  
18 that HSG had been sending letters to other agents  
19 of WorldCom, is that correct?

20 A. That's correct.

21 MR. MARCUS: Your Honor, may I  
22 approach the witness?

23 THE COURT: Go ahead.

24 BY MR. MARCUS:

25 Q. Do you recognize this letter?

1 WORLDCOM, INC., ET AL

2 A. Yes, I do.

3 Q. Is this, in fact, a letter or a  
4 form of the letter that was sent out to other  
5 agents?

6 A. Yes.

7 Q. Who were these letters sent to?

8 A. They were sent to agents that were  
9 on a list of agents that WorldCom owed money to.

10 Q. How many agents was this sent to?

11 A. About 1400.

12 Q. 1400.

13 Do you recall in the course of  
14 discovery that the Debtors had asked that you  
15 provide the Debtor with information regarding your  
16 communications with other agents?

17 A. Yes.

18 Q. And the answer to that question was  
19 that you had sent out a form letter to several  
20 agents and you listed three, three agents; is that  
21 correct?

22 A. I don't recall that, no.

23 Q. Okay. But isn't it a fact this  
24 solicitation was, in fact, sent to over 1400  
25 agents?

1 WORLDCOM, INC., ET AL

2 A. Now, are you using "solicitation"  
3 in the same terms as before?

4 Q. Let me phrase it differently.

5 This letter that you sent to other  
6 agents was sent to over 1400 agents?

7 A. Somewhere around there. The notice  
8 was on the prepetition money owed list.

9 MR. MARCUS: That's all I have.

10 THE COURT: Redirect?

11 MR. ENGELMAN: A few questions.

12 THE COURT: Go ahead.

13 MR. ENGELMAN: Thank you.

14 REDIRECT EXAMINATION

15 BY MR. ENGELMAN:

16 Q. Mr. Bein, following up this line of  
17 questions regarding this letter of February 7th,  
18 2003. This letter was not directed to any of the  
19 Customers, capital "C," that we talked about,  
20 correct?

21 A. Absolutely, no.

22 Q. Is it your understanding that the  
23 surviving terms of the representation agreement  
24 evidenced by Movant's Exhibits 1 through 7 contain  
25 any type of prohibition of your contacting these



1 WORLDCOM, INC., ET AL  
2 agents?

3 A. There was none whatsoever.

4 Q. Talked earlier about -- in fact,  
5 the Judge intervened and went over some of those  
6 numbers in terms of what the call center reports  
7 represent.

8 You're comfortable with the  
9 accuracy of your testimony today, how many related  
10 to each customers calling in for follow-up  
11 service?

12 A. I am very comfortable with that.

13 Q. Did you -- strike that.

14 Did HSG solicit any Customers,  
15 capitalized "C," for PNG customers prior to  
16 July 31st, 2002?

17 A. Absolutely not.

18 Q. And did you ever have a  
19 conversation with Mr. Brent Lako which you said  
20 that HSG had done this type of solicitation?

21 A. I don't think so.

22 Q. And other than this one incident we  
23 talked about referencing this line 2502 letter, is  
24 it your testimony that there was no solicitation  
25 of the customers until the middle of November?

1 WORLDCOM, INC., ET AL

2 A. That's my testimony, sir.

3 Q. And the last commission check that  
4 HSG received was covering the period of  
5 September 2002, is that correct?

6 A. That is correct.

7 Q. And it hasn't received any  
8 commissions for October, November, December of  
9 2002?

10 A. And beyond, yes.

11 MR. ENGELMAN: Nothing further,  
12 Your Honor.

13 THE COURT: Any recross?

14 MR. MARCUS: No, Your Honor.

15 THE COURT: All right. Thank you.  
16 You may step down.

17 MR. ENGELMAN: No further witnesses  
18 by Movant.

19 THE COURT: The Debtor has a  
20 witness?

21 MR. STROCHAK: We do have one  
22 witness, Your Honor. We estimate the direct will  
23 probably take 20 to 25 minutes.

24 I know Your Honor is up against a  
25 1:00 o'clock deadline, and I wanted to advise the

1                   WORLD COM, INC., ET AL

2       Court of that and we will take our guidance from  
3       the Court.

4                   THE COURT: I can't explain at this  
5       minute, but the 1:00 o'clock deadline is something  
6       of a personal nature I have to address. And I  
7       know it's inconvenient for the parties to do -- to  
8       adjourn this and I know it's also costly to the  
9       parties.

10                  MR. STROCHAK: I wanted to indicate  
11       our witness is a local witness. He is from  
12       northern New Jersey, so from the Debtors'  
13       perspective. It's no problem for us to come back  
14       a later day. I know counsel is here from the West  
15       Coast, so there are some difficulties there.

16                  We will obviously take our guidance  
17       to the Court.

18                  THE COURT: Would counsel -- and I  
19       don't impress this upon counsel for the Movant  
20       here, would you be opposed to doing a cross  
21       examination by telephone?

22                  MR. ENGELMAN: That was going to be  
23       my suggestion.

24                  THE COURT: I really do apologize.

25                  MR. ENGELMAN: I understand.

1 WORLDCOM, INC., ET AL

2 THE COURT: But I'm not opposed to  
3 you doing it -- I think it's best if you had the  
4 witness in front of you for your cross  
5 examination. And I think if local counsel,  
6 Mr. Koral, can be here to assist in terms of  
7 presentation of documents to move it along, that  
8 would be helpful.

9 MR. ENGELMAN: Happy to do that.

10 THE COURT: And I would really like  
11 to adjourn this to July 1st. And we will work out  
12 the time. And not only will you be on the phone,  
13 so obviously, will be your client and you can  
14 participate. And it shouldn't in any way  
15 discourage you if you literally want to be here.

16 MR. ENGELMAN: Any opportunity to  
17 leave Phoenix in the summer is always welcome, so  
18 I may take you up on it; but I probably will  
19 appear telephonically. Thank you.

20 THE COURT: You may be better off  
21 with the weather of Phoenix than being in New  
22 York.

23 I appreciate it. We will put it on  
24 July 1st. We will work out a time, probably late  
25 in the afternoon, to continue this with Debtors'

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WORLD.COM, INC., ET AL

witness who will be here in person and counsel for  
the Movant can participate by phone.

Mr. Koral, are you available on the  
1st to be here?

MR. KORAL: I will be available,  
yes.

THE COURT: All right. Thank you  
so much.

(Whereupon, the proceedings were  
concluded.)

oOo

I N D E X

Witness:	DIRECT	CROSS	REDIRECT	RECROSS
GEORGE BEIN	42	79	100	

E X H I B I T S

MOVANT'S A1-19	41
MOVANT'S B	41

C E R T I F I C A T E

STATE OF NEW YORK )

) SS.:

COUNTY OF NEW YORK )

I, SABRINA SALAS, a Shorthand  
Reporter and Notary Public within and for  
the State of New York, do hereby certify:

I reported the proceedings in the  
within entitled matter, and that the  
within transcript is a true record of  
such proceedings.

I further certify that I am not  
related, by blood or marriage, to any of  
the parties in this matter and that I am  
in no way interested in the outcome of  
this matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 20th day of June, 2003.

  
SABRINA SALAS

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